

No. 2:24-cv-01349
(filed electronically)

1. Defendant Department of State (Defendant) is a Pennsylvania Executive Branch Agency under the leadership of the Secretary of the Commonwealth.

2. Defendant Secretary of the Commonwealth Al Schmidt is the Secretary of the Commonwealth with certain enumerated responsibilities under the Election Code.

3. Plaintiff Cornel West is Justice for All's candidate for President of the United States.

4. Plaintiff Melina Abdullah is Justice for All's candidate for Vice-President of the United States.

5. Justice for All is considered a political body under the Pennsylvania Election Code.

6. The Pennsylvania Election Code, including specifically 25 P.S. §§ 2911-2914, governs nomination of candidates by political bodies.

7. The deadline for political bodies to submit nomination papers to the Department for the 2024 general election was August 1, 2024, at 5 pm.

8. The Department's website has a page titled "Third Party Nomination Paperwork."¹

9. The frequently asked questions portion of that page states the following:

Do presidential electors need to complete the Candidate's affidavit?

Yes, minor political party and political body candidates for the office of presidential elector must file candidates' affidavits by the August 1 deadline. 25 P.S. §§ 2911(e), 2913(a).

¹ See <https://www.pa.gov/en/agencies/dos/programs/voting-and-elections/running-for-office/third-party-nomination-paperwork.html#accordion-21c3b2a9ea-item-f2eb7b4ba2>.

10. The frequently asked questions portion of that page also states the following:

Do presidential electors submitting nomination papers need to have the same party affiliation as the candidate?

No, but any person who is a registered and enrolled member of the Democratic, Republican, or Libertarian party during any period of time beginning thirty (30) days before the primary and extending through the general or municipal election of that same year is ineligible to be a candidate for presidential elector of a political body in a general or municipal election held in that same year. 25 P.S. § 2911(e).

11. The frequently asked questions portion of that page also states the following:

Does a Presidential candidate need to provide all 19 electors, or can they have less than that?

A presidential candidate must nominate 19 individuals to serve as candidates for the office of presidential elector.

12. These FAQs were posted on the Department's website as of June 7, 2024.

13. The Nomination Paper form created by the Department requires candidates for President and Vice-President to list all nineteen presidential electors on each sheet.

14. On July 11, 2024, Cornel West and Melina Abdullah ("Candidates") filed Nomination Papers (the "West/Abdullah Nomination Papers") with Defendants.

15. The West/Abullah Nomination Papers contained 1,287 signature pages.

16. Candidates also paid the relevant filing fee and attached some candidate affidavits.

17. On that same day, July 11, 2024, Defendants issued to a campaign representative of Candidates, who was the same person that filed the Nomination Papers, a notice that Defendants did not receive a valid candidate affidavit from any nominees for presidential elector. The notice stated that nomination papers with valid affidavits needed to “be received by this office no later than 5:00 P.M., Thursday, August 1st, 2024.” A copy of this notice is attached to this stipulation as Joint Exhibit 1.

18. On July 29, 2024, the Department received candidate affidavits from two of Justice for All’s nominees for presidential elector. One of these affidavits was from Plaintiff Geraldine Tunstalle. Copies of these affidavits are attached to this stipulation as Joint Exhibit 2.

19. On July 30, 2024, the Department emailed notices to each of the two nominees as well as the Cornel West campaign that the affidavits were deficient because they failed to list each nominee’s municipality. Copies of these emails and notices are attached to this stipulation as Joint Exhibit 3.

20. On August 1, 2024, the Department received by mail candidate affidavits from eight of Justice for All’s nominees for presidential elector. One of the nominees—Plaintiff Charles B. Hier—had crossed off language from the affidavit stating “that if I am a candidate for election at a general election or municipal election I shall not be a registered and enrolled member of a political party at any time during the period of thirty (30) days prior to the primary up to and including the day of the following general or municipal election, or if I am a candidate for election at a special

election, I am not a registered and enrolled member of a political party.” Copies of these affidavits are attached to this stipulation as Joint Exhibit 4.

21. At 4:21 pm on August 1, 2024, the Chief Counsel for the Department of State received an email from Mr. Matthew Haverstick—counsel for plaintiffs here—attaching affidavits from seven of Justice for All’s nominees for presidential elector. One of the nominees—Plaintiff Katherine Hopkins-Bot—had crossed off language from the affidavit stating “that if I am a candidate for election at a general election or municipal election I shall not be a registered and enrolled member of a political party at any time during the period of thirty (30) days prior to the primary up to and including the day of the following general or municipal election.” A copy this email and affidavits are attached to this stipulation as Joint Exhibit 5.

22. At 5:42 pm on August 1, 2024, the Chief Counsel for the Department of State received an email from Mr. Haverstick attaching an affidavit from one of Justice for All’s nominees for presidential elector. A copy of this email and affidavit are attached to this stipulation as Joint Exhibit 6.

23. On August 1, 2024, Defendants rejected the West/Abdullah Nomination Papers because they did not have candidate affidavits for all nineteen individual presidential electors. The rejection notice stated the “candidate may choose to file a mandamus action in Commonwealth Court, asking the court to order the Secretary of the Commonwealth Court to accept the nomination petitions pursuant to Section 976 of the Pennsylvania Election Code, 25 P.S. sec. 2936.” The rejection notice further

stated that “Failure to act in a timely manner may impair any potential remedies you seek.” A copy of the rejection notice is attached to this stipulation as Joint Exhibit 7.

24. The next day, the Department emailed the rejection notice to Candidates’ campaign. A copy of this email is attached to this stipulation as Joint Exhibit 8.

25. On August 5, 2024, a copy of the rejection notice was mailed to the address the Candidates provided to the Department. The notice was received on August 6, 2024. A copy of the proof of delivery is attached to this stipulation as Joint Exhibit 9.

26. On August 7, 2024, Mr. Shohin Vance—counsel for plaintiffs here—emailed the Chief Counsel for the Department of State on behalf of “various interested individuals, including electors who have signed the Nomination Paper of Cornel West for President and Melina Abdullallah for Vice President” asking to “discuss with you the Department of State’s apparent refusal to recognize the candidacy of said individuals.” On August 8, 2024, the Chief Counsel for the Department responded asking “Can you tell me who exactly you represent in this matter?” A copy of this email is attached to this stipulation as Joint Exhibit 10.

27. On August 15, 2024, certain presidential electors and substitute presidential electors for Candidates filed a mandamus and declaratory relief action with the Commonwealth Court under the Court’s original jurisdiction related to Defendants’ rejection of the West/Abdullah Nomination Papers.

28. The Commonwealth Court dismissed the action filed by Candidates' presidential electors and the Pennsylvania Supreme Court affirmed. *See Williams v. Pa. Dep't of State*, 2024 WL 3912684 (Pa. Cmwlth., No. 394 M.D. 2024, filed Aug. 23, 2024), *aff'd*, 2024 WL 4195131 (Pa., No. 25 WAP 2024, filed Sept. 16, 2024).

29. On August 28, 2024, Candidates filed an application to intervene in the *Williams* case while it was on appeal before the Supreme Court. Candidates were denied intervention. In their intervention application, Candidates represented that on August 22, 2024, they had hired the same counsel that represents them in this matter. A copy of the intervention application is attached as Exhibit 11.

<p>On behalf of Plaintiffs,</p> <hr/> <p><i>/s/ Matthew H. Haverstick</i></p> <p>Matthew H. Haverstick (No. 85072) Shohin H. Vance (No. 323551) Samantha G. Zimmer (No. 325650)* KLEINBARD LLC Three Logan Square 1717 Arch Street, 5th Floor Philadelphia, PA 19103 Ph: (215) 568-2000 Fax: (215) 568-0140 Eml: mhaverstick@kleinbard.com svance@kleinbard.com szimmer@kleinbard.com</p> <p><i>*Pro Hac Vice forthcoming</i></p> <p>J. Andrew Crompton (No. 69227)* Erik Roberts Anderson (203007) Ryan T. Gonder (No. 321027)* McNEES WALLACE & NURICK LLC 100 Pine Street Harrisburg, PA 17101 Ph: (717) 232-8000 Eml: dcrompton@mcneeslaw.com eanderson@mcneeslaw.com rgonder@mcneeslaw.com</p> <p><i>*Pro Hac Vice</i></p> <p><i>Attorneys for Plaintiffs</i></p> <p>Dated: October 7, 2024</p>	<p>On behalf of Defendants,</p> <hr/> <p><i>/s/ Jacob B. Boyer</i></p> <p>Jacob Boyer (No. 324396) Governor's Office of General Counsel 333 Market Street, 17th Floor Harrisburg, PA 17101 Ph: (717) 460-6786 Fax: (717) 787-1788 Eml: jacobboyer@pa.gov</p>
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